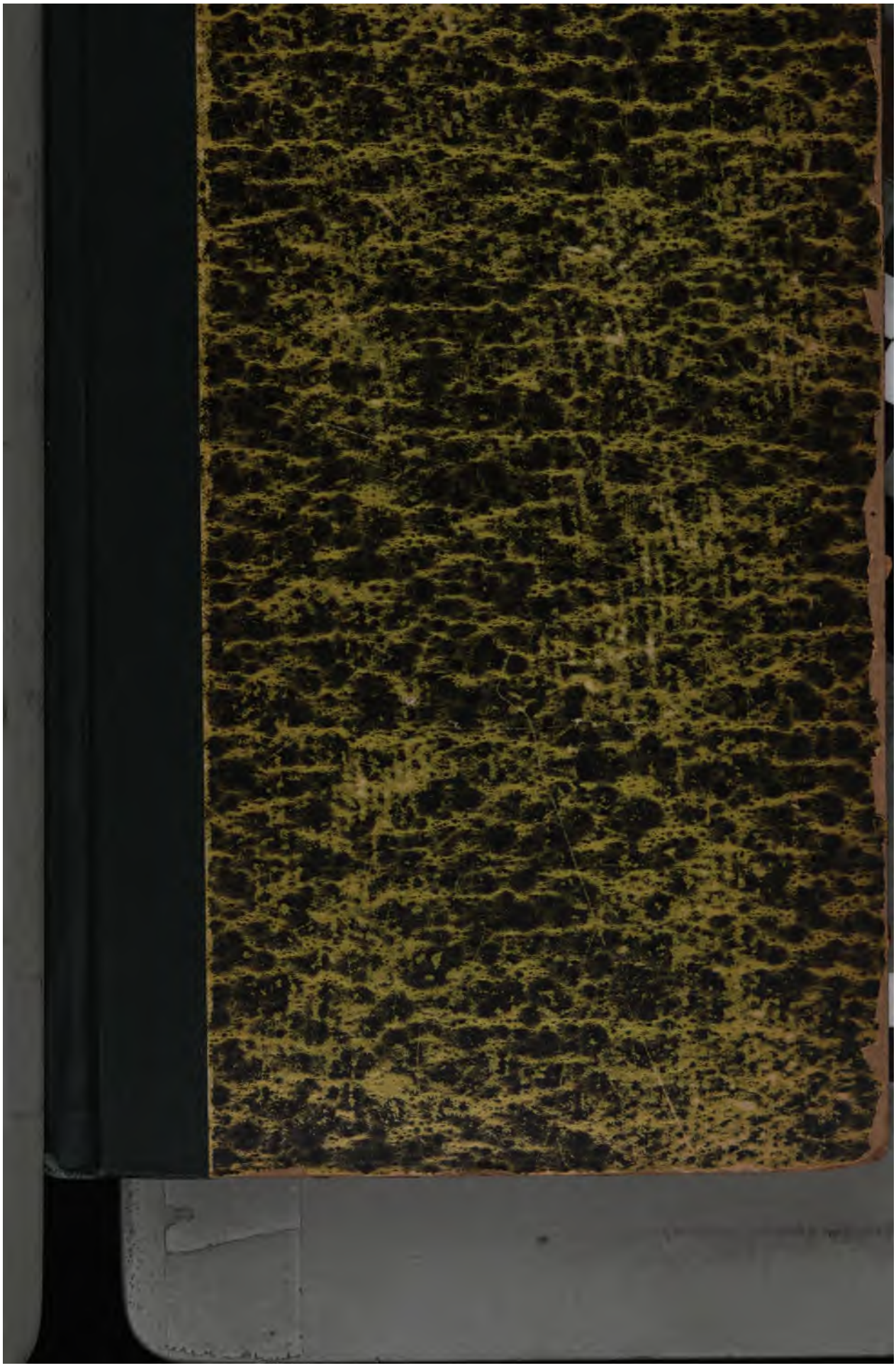

REVIEW

OF

THE PROCEEDINGS

IN THE

Massachusetts Legislature

FOR 1843;

WITH AN

APPEAL TO THE PEOPLE

AGAINST

THE VIOLENT COURSE OF THE MAJORITY.

BY

THE WHIG MINORITY.

BOSTON:
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1843.

REVIEW.

THE Massachusetts Legislature, for 1843, adjourned on the twenty-fifth of March, after sitting eighty-one days. The laws which it placed upon the statute book furnish little or no idea of the conduct of those who took the chief part in producing them. For this reason it was that the whig members desired to present to the people of the State, (through a committee regularly appointed for the purpose,) something like a review of the proceedings during the session. The duty of finding fault is not an agreeable one, especially when it becomes necessary to bring into notice the action of particular individuals. It shall not be done in this paper, excepting when higher objects than personal good or ill feeling make it indispensable. The time has arrived when the people of this Commonwealth are called to choose their position for the future. The government of the State has been seized by desperate politicians. The evidence of that desperation will be brought forward in the present review, in such forms as cannot be mistaken. If after seeing, and understanding the truth of the proposition now advanced, if after the knowledge be gained of the fact that the democratic politicians are reckless of all consequences when seeking to establish their ascendency, the majority of voters shall, nevertheless, incline hereafter to trust our political institutions to their safekeeping, then howeversomuch the decision may by many be regretted, when once it is made, no one will venture under a republican form of government to dispute it. The majority have, however, never yet manifested any confidence in the politicians who pretend to represent the democracy of the State, when those persons only showed their best side in their professions. It can scarcely be believed that they will do more, after they have had an opportunity to see the worst side in their actions, whilst clothed with a momentary authority.

But in order to understand all the facts which belong to the present history, it will be necessary to go back as far as the time of the last general election in November. If there was any single thing made clear by the result of that election, it was that

the majority of the people had become dissatisfied with the existing condition of political affairs. The excitement attending the presidential election of 1840 had passed away, and left nothing but disappointment behind it,—disappointment at the unfortunate course that events had taken at Washington, the responsibility of which they were called upon to bear who had no share in producing them. In the turn which the public opinion took, both parties had something to contend with, for it was as a consequence of this state of feeling, that it was found to be difficult to elect individuals known to have heretofore taken an active part on any side, or indeed, it may be more truly affirmed, any body at all. Of the offices for which candidates were proposed in the usual manner on each side, an uncommonly small proportion, as compared with ordinary years, were filled by the people. No choice was made of a Governor, or a Lieutenant Governor, or of sixteen out of forty Senators, or of six out of ten Representatives to the Congress of the United States, or of State Representatives in more than ninety out of three hundred and eight towns in the Commonwealth. When the fact became known that the House of Representatives of the State would probably decide the political character of the government for the year, by filling the vacancies left by the people, another great effort was made to elect members from the towns which could not choose at first, and this was for the most part successful. But the general result was only to make the House of Representatives itself so evenly balanced between the different parties, as to express the sentiments of neither, and very exactly to reflect the undecided state of opinion among the people themselves. Whichever of the two sides, whigs or democrats, got the majority in the House, could claim it only by one or two, and neither of them could pretend that it represented a majority of the voters of the Commonwealth. Considering these circumstances, it would have been wise and proper for both to have entirely abstained during the session of the General Court from pushing forward any violent party measures of a disputable character whatsoever. Any attempt to use extreme means to gain power, or to retain it after it was gained, was scarcely advisable, considering that the regular period would soon return when the people would again come forward and have an opportunity unequivocally to signify their will. So far as the members of the whig party are concerned, it can be truly affirmed that they did steadily adhere to the policy here pointed out. They originated no new business of a doubtful character. They were at all times ready and willing to co-operate with the democrats in despatching the usual business of the session. They held themselves ready for an early adjournment, and a new trial before the

people which might decide the policy of the State fairly and fully for the future. Had the advisers of the democratic party done the same thing, had they not done the direct contrary to it, and heaped up all sorts of crude and electioneering schemes in the General Court, there would have been no need at all of a review of their proceedings, any more than there would have been of thirty out of the eighty-one days that the session lasted.

To test this point fully, it is necessary only to recollect precisely how matters stood on the first Wednesday of January, 1843, when the Legislature assembled. In the Senate fourteen of the members chosen were of the democratic party, ten were whigs, making a majority of four democrats. In the House of Representatives, out of three hundred and fifty-one members, one hundred and seventy-four had been elected as whigs, one hundred and seventy-two as democrats, four were abolitionists or third party men, and one was a democrat chosen by whigs, and therefore claimed by both parties. One whig member, Mr. Collins, elected from the strong whig town of Eastham, deserted his friends and joined the democrats, making the members of the two parties exactly equal. It was believed that the third party when compelled to give up their neutral position would divide, so that the actual majority was not only somewhat uncertain, but whichever way it might incline, it could not be more than of two or three votes. In point of fact it turned out that the whigs had the nominal majority at the beginning, and the democrats at the close of the session. Yet of so little value was that majority either way, that the democrats actually carried their points most at first when they were the smallest number, and the whigs proved the strongest after they lost the majority. The reason of this is plain. Prudence would have dictated moderation in proposing measures which depended for success upon so nice a calculation of parties. The whig members were prudent because they determined to propose very few. The democratic majority in the Senate, which became very large after that body was filled up, followed no such good counsel, but persevered in pouring down upon the House a series of undigested, violent measures, calculated to change the whole spirit of the government. Those measures could not be carried. They who proposed them must consequently be made to take the responsibility of having neglected the voice of the people to promote party ends only, and extended the session of the Legislature at great expense without the least justification.

The objections that may be made to the course of the majority in the Legislature on the score of imprudence sink into insignificance when compared to those drawn from observation of the *spirit* in which they acted. There was apparent throughout the

session a greedy seeking for power, a vindictive temper towards political opponents, and a sort of recklessness in regard to the selection of means to attain the most dangerous ends, calculated to alarm every man who wishes well to the permanency of our republican institutions. It is the temper of the majority, foreshadowing the character of their government, if they should once be lucky enough to be sustained by the people, of which the whig members desire to give warning in season. That temper is not believed to be in consonance with the sentiment of the great majority of Massachusetts voters at this time, who have become disgusted with party violence and who demand moderation in their representatives. How, and when it was manifested, will more fully be shown by examples in the course of this narration. The first instance of it, which is worthy of notice, happened at the very opening of the session in the choice of officers of the two Houses.

THE CHOICE OF PRESIDING OFFICERS.

It has already been shown, that in the Senate the democratic party had, at the opening of the session, a majority of four. Of course they had the control of the organization. They exercised their power by the choice of Dr. Leland of Bristol County, as President, and Lewis Josselyn, as Clerk. If one object of these elections had been to expedite business and make a short session, it certainly was not a fortunate move to substitute these two gentlemen for the experienced and dignified Josiah Quincy, jr., and an officer so long tried as Charles Calhoun. It is not probable however that such a consideration ever entered into the minds of the majority. They were resolved to have a presiding officer of their own party, and in this they are not perhaps to be found fault with, but who should be the man was a puzzling question, seeing that they were conscious of having very few who were at all fit. Under those circumstances, it is perhaps not to be wondered at that they decided not to regard the question of fitness at all, and to vote for Dr. Leland at all hazards. They knew perfectly well that Dr. Leland was not competent to perform the duties of President, because he distinctly told them so. In this remark there is nothing disrespectful meant to the charter of that gentleman at all. No man, be he who he may, can preside efficiently over a legislative body, who has not been a member of one, and acquired some degree of familiarity with its rules of proceeding. Dr. Leland told the Senate that he was a new hand at legislation, when he took the Chair. The fault of putting him into a place which he could not fill belongs to his party and not to him. He resigned in a week, after convincing the Senate that he ought never to have been elected, and Mr.

Robinson of Middlesex was then put in his place. The reason why he was ever elected remains yet to be explained. The whole proceeding, although of no great consequence to the public, is nevertheless worth recording as tending to show the utter indifference which the majority had for the dignity of the Senate, and the headstrong rashness with which they drove a man into a high situation before they had considered whether he could fill it or not. The same spirit thus manifested in this little incident at the opening of the session, will be found to characterise all the proceedings of the Senate from the first to the last day.

The same disregard of all ordinary considerations of propriety distinguished the acts of the leading democratic members in the House of Representatives. Considering the very peculiar division of parties in that body, and also that a great number of the members were wholly unacquainted with legislation, it did seem of the very first importance to the preservation of order and the transaction of business that an experienced Clerk should be elected. Such a man was Mr. Luther S. Cushing, who had repeatedly been elected to the place in former years, with the aid of the democratic members themselves. Even under the supposition of a choice of a democratic Speaker, the services of one officer not entirely new to the business, who might aid the inexperience of the other, were worth retaining on every account. Yet the democratic members did not hesitate to run the risk of confusion in the House for the sake of pushing Mr. John A. Bolles, a wholly untried person, into the place. He received the entire vote of the party, and only three votes less than Mr. Cushing. Had it so happened that he had been chosen, it is not doing him any discredit to doubt whether he would ever have succeeded in bringing the House to a peaceful organization. As it was, with the aid of the long business habits, the peculiar talents and the equal temperament of Mr. Cushing, the work proved difficult enough. The State owes it in a great degree to the impartial manner in which he filled the place of presiding officer during the three days that intervened before the choice of a Speaker was effected, that any one was regularly chosen, or that nothing passed derogatory to the character of the State in the course of the proceedings. The democratic members endeavored to repair the injustice committed by them in the outset, by proposing in an unprecedented manner, and by voting the thanks of the House to him after the struggle was over, but this strengthens instead of removing the censure against them for seeking in the first instance to turn him out. Good officer as they universally acknowledge him to be, they confess themselves willing to risk confusion and to set him aside rather than not to try for the spoils of victory in behalf of their own partisan.

The trial for the Speaker is the next event in order. This was too remarkable to be here passed over in a hurry. Neither the whigs nor the democrats numbered a clear majority of the House. The unpledged abolitionists, or third party, held the balance of power. So long as the contest was understood to be conducted according to the constitution and the laws which the members of the House had taken an oath to support, no objection could reasonably be brought against the zeal of either party to gain the victory. When the fact became known to the whigs, that although but three hundred and fifty certificates of membership had been given in on the first day, the oaths had been taken and the privileges of membership claimed and exercised by three hundred and fifty-two persons, it very naturally led to inquiry and some uneasiness. The two supernumeraries proved to be Mr. Thomas Nash, jr., and Mr. Justus White, both claiming to represent the town of Whately, and neither of them possessing any certificate of election as required by law. Upon the first intimation of dissatisfaction, Mr. White determined to wave his pretentions to the seat, but Mr. Nash manifested no similar disposition. For the purpose of bringing the subject home to his attention and to that of the House, prior to the ballotting for Speaker, Mr. Park, a whig member from Boston, offered an order, calling upon Mr. Nash to say whether he had the same evidence of his right to a seat which the other members had produced ; that is, a certificate signed by the selectmen of the town he assumed to represent. This call was met, not by Mr. Nash, nor by the production of the certificate, but by Mr. Seth J. Thomas, a member from Charlestown, who remarked that though Mr. Nash possessed no certificate, he had what was better than any certificate, namely, a certified copy of the record of the town meeting at Whately, which showed that he was elected. Without however pretending to read that copy, he immediately moved to lay Mr. Park's order on the table.

Such is believed to be an exact statement of the facts relating to this extraordinary proceeding. But some explanation is absolutely necessary to render the object of it perfectly intelligible. The whig members could scarcely avoid being startled when they saw Mr. Thomas, the gentleman announced to be the democratic candidate for Speaker rise to sustain a political friend who was trying to force himself into the House without having the usual evidence of a right to sit there. It betrayed some want of confidence in the ground assumed by him that Mr. Thomas did not at once read the evidence which he held in his hand, but instead of it that he made what is called a gag motion, that is, a motion calculated and perhaps intended to prevent the whigs from asking of him any further explantions. How much more cause had they to be amazed when they found that Mr. Park had also a certified

copy of the record of the Whately town meeting and that at the end of it was an entry in the following words.

"Voted, to *not* send a Representative to the General Court the present year. Attest: SAM LESURE, *Town Clerk.*"

This did not however come out until after the motion to lay on the table had been carried mainly upon the strength of Mr. Thomas's representation of the facts, and Mr. Nash was thus permitted to put in a vote for Mr. Thomas as Speaker upon the three first ballotings.

Whether Mr. Thomas in the unexplained and unqualified assertion which he thought proper to make in the face of the House, did or did not *intend* to leave an erroneous impression upon the minds of the members which by the aid of his gag motion would not be corrected until an election of Speaker should have been made through the agency of this doubtful voter, is a question not properly within man's province to determine. The whig members seek to do no injury to their political opponents by ascribing improper motives to them, although they claim the right of full examination of their public acts. They are perfectly prepared to leave the people to form their opinions for themselves, provided only that the evidence be fully submitted to them. Allowing to Mr. Thomas and to his friends the most favorable construction possible of the facts that have been stated, there was yet something in the very boldness of the movement calculated to make the whig members tremble at the prospect of the ascendency of such a party in the State. Yet so great was their disposition to forbear from any act likely to hazard a peaceful and orderly organization of the government, that they determined not to dispute this point any further at this stage unless it should become evident in the course of the ballotting that Mr. Nash was about by his vote to make a Speaker.

On the first ballot, the votes stood for	Mr. Kinnicutt	173
" " " "	Mr. Thomas	173
" " " "	Mr. L. Williams	4
" " " "	J. A. Bolles for Clerk	1
		351
On the second ballot,	for Mr. Kinnicutt	174
" "	" Mr. Thomas	175
" "	" Mr. L. Williams	2
		351
On the third ballot,	for Mr. Kinnicutt	175
" "	" Mr. Thomas	175
		350

One member of the third party did not vote.

It was not until the result of this last balloting was declared that many of the whig members began to think justice to their own constituents and to the whig party throughout the State demanded of them immediately to ascertain the fact whether Mr. Kinnicutt had not then been chosen by a majority of all the legal votes given in. For this purpose Mr. Bigelow of Boston offered an order requiring Mr. Nash to answer the question whether he did vote at the last ballot. Seeing the success of the last gag motion to lay on the table, Mr. Tarbell, a democratic representative from Pepperell made another. But the whigs refused this time to submit to be bound by the forms of a House not yet organized. They insisted upon their right to probe this question to the bottom. And the consequence was a discussion which went far to enlighten the House as well as the people of the State upon the true points at issue between the parties. Mr. Tarbell's motion was put by the Clerk and the return was 172 against it, and 172 for the motion besides Mr. Nash himself who made no scruple about getting rid by his own act of answering a troublesome question. Had his vote passed this time without challenge, he would have succeeded in forcing himself into the House by means of it. Mr. Walley of Roxbury immediately perceived the difficulty and again opened the question by a motion not to allow the vote of Mr. Nash. Thus the precise issue was presented to the House in this case which the whig members had been unable from the want of the necessary evidence to get up before. It was plain that Mr. Nash had actually voted and that his vote had turned the scale in his own favor. Was it right for him so to vote without any certificate of election in his hands and with the record of his town declaring that it had voted *not* to send? The House decided that it was not right. Every member answered to his name when it was called. One hundred and seventy-seven voted to reject the vote of Mr. Nash, one hundred and seventy-five voted to admit it, Mr. Nash himself still making one of the number. This vote included one member of the House who did not appear on the first day of the session, and embraced the whole number elected. It proved therefore decisive of the principle maintained by the whigs, which is, that in the organization of the House of Representatives it is not competent for a person to take his seat without holding the prima facie evidence, which the law requires, of his right so to do.

The excitement attending this dispute has passed away. The decision only remains upon the Journal of the House. It is confidently believed that the quiet and honest organization of the popular branch of the government in all times of close party division hereafter depends upon the sustaining that decision. Once depart from some definite landmark as to the admission of

members, and what is to prevent the fraudulent introduction of enough to turn the scale in the election of a Speaker? Shall the statement of a claimant be regarded as sufficient? Then it is not difficult to foresee the consequences to which such an admission must lead. In times of great excitement the House will be filled with disputants between whom it will be impossible to decide. There can be but one way of avoiding the interminable difficulties here pointed out. That way is already made plain in Massachusetts by the Revised Statutes. They require of the Selectmen of each town either to send to the office of the Secretary of State or to the member elect, a certificate of his election, the form of which is furnished. It is this certificate which constitutes a prima facie right to a seat in the House. It does not deprive any one of the privilege to come in and dispute that right and prove that it is not good. Neither does it debar an individual from coming in to prove that he was legally elected though he has no certificate. The difference only is that such cases as these remain to be afterwards settled. They must not be suffered unreasonably to delay the organization of the House and the despatch of the public business, by those members whose rights are for the time at least established.

The House having decided to reject Mr. Nash's vote from the count in one case, nothing remained but to make the rule apply generally to all. For this purpose Mr. Colby, a member from New Bedford, offered an order disqualifying both the claimants, Mr. Nash and Mr. White, from acting as members until further proof could be had of their rights than had yet been presented to the House. This order was adopted, and Mr. Nash withdrew. He had, however, succeeded in avoiding to answer the question whether he had voted, and for whom he had voted. The whig members therefore, although morally certain that Mr. Thomas had actually received his vote at the third ballotting, whereby the election of Mr. Kinnicutt had been prevented from being declared, as it should have been, were unable to establish the fact in such a manner as to put it beyond the possibility of question. They were therefore reluctantly compelled to submit to the wrong thus committed upon their constituents by the violent conduct of their opponents, and to consent to go into a new ballotting. They were anxious to go forward with the work immediately after the decision in the case of Mr. Nash. But here again they were defeated. Mr. Leonard of Westfield, a democratic member, distinctly announced to the House that he wished an adjournment in order that they might have another opportunity to appeal to the balance of power party, as he called the four abolitionists. An adjournment was, after a severe struggle, carried, and the effect of it was fatal to the success of both the party candidates, as will now be explained.

Here is another instance of the reckless indifference, on the part of the majority, to every object but the acquisition of power. Convinced by the result of the struggle on the last day, that they could not elect Mr. Thomas, they decided to give him up and select a candidate from among the third party, consisting of four individuals, three of whom had manifested partialities to the whig side. It was hoped that by putting up the fourth, who leaned towards the democrats, they would obtain the coöperation of these three, and thus at least to secure the defeat of any whig. The great objection to such an arrangement consisted in the fact that the respectable gentleman thus brought forward, Mr. Lewis Williams, of Easton, was a new member, who had never even read the rules of the House at the time he was made a candidate, and who was as conscious of his utter inability to preside over three hundred and fifty excited men, equally divided in politics, as ever Dr. Leland could have been over twenty-four senators. What would have become of the character and dignity of the Massachusetts Legislature, with two such presiding officers in its two branches? Let the people remember that *their* reputation among the States of this Union depends somewhat upon the men whom they put into office; and that a party which has not sufficient respect for them to regard the fitness of individuals for the stations to which they are advanced, is not a party which they ought to trust with the government. The only excuse that was made for this movement, even in private, was that it would be only a temporary arrangement, and give an opportunity for Mr. Thomas to come in after the party had gained the power. Was there ever more reckless doctrine followed up by more reckless practice? Very fortunately for Massachusetts, Mr. Williams was not inclined to allow himself to be made such a tool of, and the other members of the third party saw through the manœuvre too keenly to be juggled by it. But they determined not to sacrifice their neutral position entirely by taking up the whig candidate in preference to their own friend, Mr. Williams. So long as the contest was between Mr. Thomas and Mr. Kinnicutt, they might have been induced to give the latter a reluctant support. When the ground was changed, the unfounded prejudices which they had most unfortunately imbibed against him, gained strength. They declared their preference for Mr. King, of Danvers, a gentleman perfectly qualified in every respect for the post to which they assigned him. Perceiving their determination to abide by this declaration, and that no choice at all could be effected without their votes, Mr. Kinnicutt came forward and very properly withdrew his name from the contest. Mr. Thomas could not be persuaded to follow the example. He did not like being abandoned for Mr. Williams, and therefore he simply declared that he placed himself in the

hands of his friends. Three only of those friends responded to his call; the rest all voted for Mr. Williams. The result of the fifth and final ballotting was as follows:—

176 voted for Mr. King,
172 for Mr. Williams,
3 for Mr. Thomas,

and Mr. King was declared to be chosen.

Some objection has been started among the democrats to this choice, on account of the vote given in it by Mr. Ilsley, the representative from Chelsea. It was maintained, in the discussion of the Whately question, that Mr. Ilsley had no right to a seat in the House; and this position is thought to derive some strength from the fact that the democratic members, at a later period, succeeded in driving him out. The merits of the Chelsea election question shall be briefly considered hereafter. At present it is only necessary to say that, so far as the House could take cognizance of the case at the beginning of the session, Mr. Ilsley had exactly the same right to a seat which every other member possessed. He had his certificate of election, signed by the Selectmen of Chelsea, the validity of which was only strengthened by the fact that a majority of them were of the democratic party. It could hardly be credited that they would sign a certificate in favor of a whig, if they did not believe that their duty compelled them to overcome their feelings. And the presumption was still stronger in favor of the sitting member from the fact, which was generally understood, that two legal authorities among the democrats, Mr. B. F. Hallett and Mr. Rantoul, had done every thing in their power, short of downright intimidation, to prevent the selectmen from granting the certificate at all. Nevertheless, they had done it. Under such circumstances, it was impossible to deny Mr. Ilsley's right to a seat. A refusal to admit it would have been a most arbitrary and violent act. Yet one hundred and seventy-two men actually voted in favor of such a proposition, upon the very partial representations of the case which were made to the House during the discussion of the Whately case; and this was a greater number, be it observed, than subsequently effected his expulsion from it, after mature investigation. Most of these gentlemen are understood to be admirers of Mr. Van Buren, and some of them advocate his pretensions to the next Presidency. Yet how few of them remember the fact, that mainly by that gentleman's agency,* the political

* Peter Allen, in 1815–16, was returned to the New York Assembly as a member, although he was not the choice of the people. His vote was wanted to control the choice of the Council of Appointment, with whom then rested the disposal of the patronage of the government, and it was used for the purpose. He was, on the next day afterwards, turned out by a unanimous vote,

complexion of New York was once controlled through one notoriously illegal vote in the Legislature, which was retained only so long as it could effect the desired object, and then was thrown out by acclamation. They were ready enough to follow the example of their leader, by introducing Mr. Nash; but when that failed, they were not ashamed to change their ground at once, and challenge and attempt to eject an individual who had in his hand the admission of their own political friends in his town, that he was as good a member of the House as any of them. With what face can they then charge their opponents with any similar design, even if it were true, which it is not? The whig members then believed, and they believe now, that the effort at the outset to deprive Mr. Ilsley of his rights as a member of the House, was the most desperate among the violent acts that were attempted during the session. Indeed, it may be regarded as the only one calculated, if successful, at once to lead to utter disorganization.

The attempt to force into the House an irregular and illegal vote for the purpose of deciding the choice of Speaker was the first great democratic measure of the session. It has been explained at length, as well because of its intrinsic importance, as because it clearly manifests the temper with which the majority began the year. The next business was the filling up the vacancies in the Senate and the organization of the government.

ORGANIZATION OF THE GOVERNMENT.

The two parties went into Convention of the two branches for the purpose of electing Senators, agitated almost equally by their hopes and their fears. It was known to both that the third party of abolitionists intended to vote an independent list of its own selected from the candidates constitutionally eligible without distinction of party and calculated to balance the Senate nearly as equally as the House was balanced. The effect of this would have been to have put the whole government in abeyance for one year, and to have left the people untrammeled to decide next autumn the question which they failed to settle in this. Considering the peculiar condition which the public sentiment had been in, perhaps this would have been the arrangement most clearly representing it. Extraordinary legislation would have become scarcely possible, and after a very short session all parties would have returned to the people the share of power which they had receiv-

and the true representative, Mr. Williams, admitted. Mr. Van Buren was then a member of the State Senate, and all-powerful with his party at Albany; and though his name does not appear in the record of the transaction, there can be no doubt of the accuracy of the statement as here made, of his agency in it.

ed neither strained nor abused to unworthy purposes. So far as the whig members are concerned, it may be regarded as fortunate that the plan did not succeed. They stand perfectly free themselves from all responsibility of having abused power accidentally obtained, and ready to expose that abuse as often as it was committed by their opponents. The democratic party succeeded in electing fifteen out of sixteen of their candidates, but not by their own strength. It is important to the people that they should understand this fact. A democratic council, a new Secretary of State and a new Treasurer were imposed upon Massachusetts, not by democratic votes but by the treachery of a whig in filling the vacancies in the Senate. Mr. B. F. Hallett became the leading political and legal adviser of the Governor through the agency of Mr. B. H. A. Collins, a representative from the town of Eastham in Barnstable County, where the vote for Governor in November stood for John Davis 72, for Marcus Morton 17, for all others 11. The people have never yet sanctioned treachery to any trust. Neither will they in the present instance look with much favor upon revolutionary innovations attempted by persons who gained the opportunity to offer them not through their authorized instructions but through the betrayal of the confidence which they had reposed in one man.

Mr. Hallett was chosen Councillor for Suffolk district. Mr. John A. Bolles was forced into the place of Secretary of State so well filled by Mr. Bigelow—and after a long and fatiguing search, a democrat was at last found willing and able to give the necessary bonds as Treasurer in the room of Mr. Russell. But let it not for a moment be supposed that there were not among the democratic members several who deeply felt the indignity to which they were subjected by being made instruments to effect these changes. A few positively refused to vote against Mr. Bigelow, but not enough to save him from the large majority just introduced into the Senate. One gentleman only had the courage to declare his opinions to the world and at the same time to withdraw himself from the scene in which these things were acting. That gentleman was the honorable Nathaniel Wood, a senator elect to fill one of the vacancies in Worcester County. He came to Boston thinking that his political friends had principles to guide their course. He discovered that they were submitting to the dictation of a clique of political adventurers who had only selfish ends in view and he cut loose from the connexion forthwith. He resigned, went home and published an address to the democrats of Worcester County explaining the causes of his resignation. Towards the close of this paper which bears the marks of honesty of purpose in every line, he uses the following words.

"But, fellow citizens, I by no means wish you to suppose that our whole democratic delegation are responsible for the result above detailed. Many of them are new members and are entirely unacquainted with, and consequently unsuspicious of, the malign influence of a certain small *clique*, which like the Atlas clique, as it is sometimes called, attempts to guide the destinies of our party. And most of the old members, though conscious of the cords, which the wily selfishness of a few heartless politicians are winding about them, live on in the hope, BUT IN THE VAIN HOPE, I APPREHEND, of cutting them asunder without any violent disruption, which may possibly injure the prospects of democracy. I entertain different views about the policy of *openly* denouncing dishonesty as soon as it is discovered. *If our party cannot be successful without secretly fostering in its bosom the wicked and pernicious political adventurer, who is never content unless he impregnates with his poison all our acts*—then let us rest satisfied without success until we can cast HIM out. Success is not worthy of the name unless it be a righteous one and carried on when obtained in righteousness. Our principles are too good and too highly prized by me to have them marred and adulterated by the subtle intrigues and selfish schemes of a few unprincipled partisans. I have retired discomfited but not discouraged. I despair not of the eventual success and permanent supremacy of democratic principles in Massachusetts. But to accomplish this, we must not be under the dictation of, nor suffer ourselves to be browbeaten by those few adventurers who can discover no other fruits in a democratic triumph than money in their pockets—and huzza at our ascendency only because it will probably lift them into high offices of honor and emolument."

Such is the language of the democratic senator from Worcester. That he had particular persons in his mind to whom he applied his censure must be inferred as well from the general spirit of his address as from the manner in which he is understood to have left his post. He believed that those persons were impregnating with poison all the acts of the democratic party. He did not resign until after a fruitless attempt to resist their influence. Here then is a plain admission of the truth of all which the whig members pretend to charge against the majority. They undertake to name no one as responsible for the mischief, but they look to the facts alone. The acts of the democratic party during the session *were* impregnated with so much poison as to disgust the moderate portion of it all the time, and finally to produce disruption of the party bonds on many of the measures. Whether the cause of the evil lay in an utter indifference to every consideration but that of party or personal supremacy, as the whig members maintain, or in the dishonesty of wicked and pernicious political adventurers, as Mr. Wood seems to have discovered, makes little difference in substance and equally furnishes matter for the people maturely to reflect upon before they decide to put any more power into the hands which now hold it.

THE ADDRESS OF MARCUS MORTON.

Marcus Morton was sent up as a candidate of the House for Governor upon the second ballotting by a majority of one. The

Senate elected him and on the 20th of January he came into the Convention of both Houses and delivered his address. It is not the purpose of this paper to go into an examination of that singular speech which was quite as remarkable for what it did not as for what it did say. Not a syllable of allusion to the remarkable circumstances under which he was called to the chair of State. Not a whisper of modesty as to the extent of the authority to recommend changes of the policy of the State conferred upon him by the vote of an apostate representative. Not a particle of reference to the condition of the great interests of the Commonwealth considered as a member of the United States, interests somewhat hazarded by the spread of Mr. Calhoun's doctrines and personal influence in the democratic party. Not a breath concerning the great popular excitement within the State which was about to spread a roll containing sixty-five thousand names before the General Court requiring further safeguards against the progress of the doctrines of slavery. These things were of no consequence in comparison with some whispers of complaint at the unequal dispensations of a divine Providence and some sly insinuations against those nameless persons who try to increase the inequality. Then growing bolder in insinuation as the address proceeds, it sympathises in all discontents that have been heretofore manifested at any portion of the policy of preceding governors of the State. And at last aiming at something tangible, it ventures to doubt the credit of the State on account of imagined embarrassments into which the whig party whilst in power had thrown it, and to imply that the school fund invested in bonds secured by the solemn pledge of the State is not unlikely to be lost if that pledge should ever be required to be redeemed. Not content with solemnly broaching a doctrine which can find no other bottom creditable to the people of the State than a supposition that repudiation may in certain cases be justifiable, it goes on to attack the liberal policy heretofore distinguishing the government of the State in encouraging works of internal improvement, and to take credit for a degree of sagacity in three years ago anticipating difficulties which the writer can show nowhere out of his imagination.

PEOPLE OF MASSACHUSETTS!

Ask your own hearts, ARE THESE CHARGES TRUE?

From the year 1830 to the year 1840 the population of Massachusetts under the whig administration which encouraged internal improvements and all useful enterprise increased from 610,408 to 737,699 or 127,291, more than 20 per cent.

During the same period the population of New Hampshire under a democratic administration which preached exactly the

ame discouraging doctrines as Marcus Morton, increased from 292,328 to 284,574 or 15,246, being not 6 per cent. and in fact less than the increase in 23 of its manufacturing towns, most of which are still sustained by Massachusetts energy and Massachusetts capital.

The amount invested in railroads since they were first undertaken under the encouraging system of Massachusetts, exceeds eighteen and a half millions of dollars. Whereof the State itself has taken about one million of dollars for which it is now indebted.

The State of New York which has been during a large part of the time under the infliction of democratic advisers, is now in debt for its public enterprises in the sum of $17,560,000.

The State of Pennsylvania is in debt for the same cause in the sum of at least $34,600,000.

The State of Illinois which has had the benefit of democratic counsellors almost uninterruptedly, is now in debt for similar undertakings not profitably completed in the sum of $10,000,000.

And notwithstanding the doubts and suspicions and evil insinuations of the governor and all who are like him, the credit of Massachusetts stands now in Europe as it has always done as high if not a little higher than that of any other State.

Is not the inference then perfectly just, that whilst Massachusetts on the one hand has not stood still like New Hampshire chilled and withering under the curse of advisers like Marcus Morton, on the other hand she has not been involved in any dangerous engagements beyond her ability to pay as the log rolling politicians have involved democratic Illinois? Massachusetts possesses a more effective and profitable system of railroads than any other State, because she has contented herself with encouraging the enterprise of her citizens, and not taking the work out of their hands. And yet the newly elected governor has the confidence to declare his conviction that his predecessors have been wanting in discretion, when it is plain that if his opinion had prevailed Massachusetts might have taken her stand with New Hampshire it is true, but it would have been like her to supply her neighbours with her population which she will do nothing to encourage to stay at home.

It is considerations like these which mark the difference between the policy of true statesmen and mere demagogues. The business of finding fault is an easy one but it will never aid the inindustry of the people or create markets for their produce. That must be done by MEN; men in every sense of the word, who regard the government as something more than a mere huckster's shop, men who are as little afraid to meet responsibility to their constituents for what they have attempted to do in their service,

as they are of the sneers and doubts and evil insinuations of more cunning natures ever on the watch for little opportunities to gain credit to themselves for a cheaply purchased and little to be valued sagacity.

THE MEASURES OF THE SESSION.

Conscious in all probability of the peculiar position in which he stood Governor Morton was wary enough towards the close of his address to give his friends some prudent counsels. His words were as follows :

"There is more danger of too much, than of too little legislation. Every change is of itself a positive evil; and should not be adopted unless overbalanced by the remedy of a serious defect, or the introduction of a material improvement. Our statutes have recently been revised with great learning and care, and it is believed require but little amendment."

Had the distinguished gentlemen who constituted the democratic majority in the Senate taken heed of this advice they would probably have done the State service and themselves credit. The self-denial demanded of them was however much too great for their philosophy. Most of them had never been in a legislative body before and some probaby expected they would scarcely get into one again. They were therefore determined to make the most of their time. Nearly every individual had some favorite notion of his own, which he was not the less desirous of bringing forward to be discussed at the public expense because it was crude. Instead of leading any body to infer with the Governor that the statutes had recently been revised with great learning and care, the impression a casual observer must have obtained from their conduct would have been that the business was yet to do. His Excellency moreover had concluded by recommending a short session. What the prospect of a short session was after the 20th of January the day of the delivery of the speech, may be most readily conceived from an enumeration of the principal subjects of extraordinary legislation which were pressed for consideration by the majority. In the first place, there were not less than three amendments to the constitution.

1. As to limiting the power of the Legislature to borrow money.
2. As to changing the mode of representation in large towns and cities.
3. As to limiting the term of the Judges to seven years.

Then there were three measures in regard to the election laws :

1. To change the mode of balloting.
2. To reduce the maximum of the poll tax.
3. To compel assessors to admit voters without regard to the assessment of taxes as heretofore practised in towns.

Then there were :

1. A bill to abolish capital punishments.
2. A bill to reduce the punishments for crimes not capital.
3. A bill to diminish the penalty upon second and third comers at the State Prison.

Then there were :

1. A bill to change the system of prosecuting officers.
2. A bill to repeal the insolvent law.
3 A general banking law.
4. A law for the more perfect assessment of personal property.
5. A general corporation law.
6. The removal of the seat of government.
7. The several retrenchment bills, five or six in number.
8. The removal of the Adjutant General.
9. The bill to tax railroads.

In addition to all which, and by way of relaxation from graver questions, came fancy resolves :

1. About refunding to General Jackson the amount of his fine.
2. About agriculture and "millions of men and women."
3. About W. T. Olney, and picking a quarrel with the authorities of Rhode Island.

Here were twenty-one distinct subjects, most of them originating and adopted in the Senate, involving a serious change in the legislation of the State; most of them of a party character, and intended to irritate the whig members into opposition; here were these subjects thrown into the Legislature after the third week in January, and to be acted upon in addition to the ordinary business which is done every year, yet the democratic senators had the assurance to offer and to adopt an order, affirming that the General Court could with perfect ease adjourn on the 25th of February. Was this an honest expression of opinion? Then the majority only manifested their deplorable ignorance of the business which they were (most unexpectedly to themselves doubtless) in a position to undertake. Was it, on the other hand, a mere trick to deceive the people as to the real truth? Then the spirit in which they acted was not an honest one, and they deserve the castigation which Mr. Wood has done his best to apply to them. Let them take which horn of the dilemma they please, the people must pronounce them either incompetent or knavish legislators.

In this connexion it may be as well to notice a ridiculous attempt which has been made to charge upon the whig members of the House of Representatives the waste of the public time which grew out of the discussion of all these subjects. The clearest answer to such a charge is to be found in the list of meas-

ures voluntarily introduced by the majority over and above the ordinary business of the year. The ground assumed by the whig members in regard to this matter is a plain one. They proposed little or nothing, assigning as a reason for this course, that the popular voice in the autumn was not sufficiently decided to justify innovations. They favored the despatch of all ordinary business for the sake of early adjournment. They believed that by a strict confinement of the action of the General Court to such business it might have been prorogued on the 25th of February or perhaps a day or two later. But when the majority of the Senate manifested a fixed determination to push forward a series of revolutionary party measures of the crudest character, measures alarming by their tendency to unsettle the principles of the constitution, they thought it a solemn duty imposed upon them by the constituents who placed them in the watchtowers to guard their rights, to resist the progress of such schemes by every honest means. Yet they were not unwilling to discriminate between the projects thrust before them. To some they interposed little objection other than such as was drawn from the wretchedly bungling shape in which they were proposed. As to others they demanded the right of free discussion in order that they might explain the character of their objections and obtain some necessary modifications to meet their views. To others they were at all times and at every hazard uncompromisingly opposed. Under the circumstances in which the parties were placed it would have been no more than fair for them to have claimed and enjoyed the right of debating every topic of purely party character that was forced upon their consideration. In point of fact they did no such thing. The bill fixing the salary of certain officers, containing as it did a constitutional difficulty, was the only one which can be said to have been fully debated. On the three propositions to amend the constitution, perhaps three quarters of an hour was spent by the whigs in the House, in discussing the least important of them, and nothing at all was said of the others. The three bills intended to change the principle of our elections were acted upon with scarcely a single day's discussion for the whole. The changes proposed in the penal code of the State were debated about half an hour by whigs. Such haste as this does not show any studied attempt to protract the session. If it prove any thing at all, it is rather an appearance of precipitation in acting upon questions deeply affecting the welfare of their constituents.

A legislative body is not assembled merely to register the edicts of a caucus or the decisions of one individual. To make really good laws, the plans offered ought to be debated, and in a large assembly, such debate will consume time. Objections will

be made. Sometimes they will be answered; when they are not they lead to amendments. The more honest and independent the members are, the less likely are they to be immediately agreed in any one opinion. The less galling the party chains are made, the longer will men be in arriving at conclusions and the wiser will those conclusions be. It is one of the most startling things attending the seizure of power by the democratic leaders to perceive how entirely disposed they were to turn their backs upon all their preceding doctrines respecting freedom of discussion. Notwithstanding their complaints of the whigs in former years, in spite of their professions respecting liberty of debate, it did so happen that from the first hour of the session to the last, there was scarcely one subject of importance brought up where some gag motion was not offered by them. One leading gentleman, Mr. Tarbell, did not scruple to declare that the previous question was a motion extremly popular in its character because it puts an end to debate. If his position be the true one, then the absolute monarchs of Europe are right in maintaining that there is no necessity for deliberative bodies of any kind. The theory of republican institutions cannot be sound if the various opinions of the people find no opportunity for expression among the men whom they choose to represent them. Yet so little did these persons who assume to speak for the people respect their principles, that it actually appeared at one time of the session as if particular individuals were selected in the several divisions of the House for the sole object of getting the speaker's eye in order to make gag motions on every question. How then, it may be asked, could it be that the democratic party should find themselves able to vote at once upon every measure without deliberation? The only answer to this question is the one which Mr. Senator Wood has given in the address a part of which has been already extracted. The party did suffer themselves to be "under the dictation of, and browbeaten by, those few adventurers who could discover no other fruits in a democratic triumph than money in their pockets." Mr. Wood's apprehension was probably verified to the letter. The schemes were pushed in caucus, and driven through the Senate. What alone prevented their success was that there were a very few members of the party in the House who agreed with Mr. Wood, and who did more service to the State by acting up to their opinion in their places than he by his resignation and consequent avoidance of his duty.

RETRENCHMENT.

One of the principal measures of the session was the reduction of the expenses of the government. This was brought forward

by Mr. Tarbell in a series of bills most of which were adopted by decided majorities of both Houses. Considering the great diminution that has taken place in prices of all articles of consumption, many of the whig party were of the opinion that something might be done in the way of retrenchment, and the only difference between them and their opponents was as to the precise extent to which it should be carried. The general opinion seemed to be that the people considered some salaries too high and some offices unnecessary. And had Mr. Tarbell thought proper to draught his bills so as to meet that general opinion, it is not likely that he would have encountered serious opposition. But he did not attempt to conciliate any part of his opponents. In his speech upon the subject he addressed himself exclusively to the democrats. He told them that the party had promised retrenchment, and for this reason *they* ought to pass his bills. As if he dreaded their tendency to think for themselves, he urged them to keep together rather than to examine minutely the merits of the question. Nothing could be effected, he said, without party union. He claimed for his party all the merit of advocating economy, and he appealed to them in an earnest and very effective manner to sustain him at all hazards. Mr. Brooks in his reply very successfully appealed to facts to show that these claims of Mr. Tarbell were not quite so well founded as he imagined. He proved that the whigs had adopted various measures which had been attended with the result of bringing the annual expenditures of the State very far below its receipts. Most particularly did he specify the reduction of the number of members in the House, and the despatch of the ordinary business of legislation, without originating new schemes, which had shortened the sessions of the Legislature one-third. He also showed that instead of being such consistent advocates of economy, as was pretended, most of the democrats had actually voted but four or five years ago to increase their own pay by half a dollar a day, and that too after a whig Governor had interposed his veto to the measure whereby they might have prevented its adoption according to the constitution in spite of the veto, if they had chosen to lift a finger about it. Where was the promise of retrenchment then, and what the performance? Where was it even now, but in the reduction of a few dollars of other people's salaries in some cases as little able to bear it as they, without whispering a word about their own pay? Could a Judge of Probate in Bristol County, for example, with any justice be required to give up twenty-five dollars out of four hundred and twenty-five allowed for his annual services, whilst a legislator retained *all* of his one hundred and sixty given him for less than three months? Yet such was the extent of performance for which so much credit was taken in fulfilling promises.

But the great objection to the bill, which concentrated upon it the opposition of the whig members was, the pertinacity of the chairman in refusing to make the reduction of the Governor's salary take effect from the beginning of the next political year, instead of the first April in this year, and insisting upon taking five hundred dollars per annum from each of the four Judges of the Supreme Court. These two features of the bill excited very serious doubts in the minds of many members who had taken an oath to support the constitution at the opening of the session, and who could not consent to run the risk of violating it for the sake of saving the State two thousand dollars a year. If their construction of that instrument be the right one, there can be no doubt that it has been violated by the passage of this bill. They maintain that the original design of the constitution was to divide power, on account of the disposition in human nature to abuse it. The division of power was to be made between three branches or departments of the government, the executive, the legislative, and the judiciary, and the power given to one of these was not to be exercised or encroached upon by either of the others. But inasmuch as the legislative department was in its nature rather the strongest, owing to its ability to make laws and to regulate salaries for all three departments, it was expressly provided that neither governor nor judges should be made to depend upon it so much as to hazard their freedom in the performance of their respective duties. This bill does establish the principle that both governor and judges shall, *whilst in office*, depend for the amount of their compensation upon the will of a majority in every legislature that shall sit hereafter. It construes the words "STANDING LAWS" in the constitution to mean laws that may stand one year, and may then be repealed; "PERMANENT SALARIES" to mean such as change with each General Court. What is then the boasted independence of the governor and judges? Would another governor think of putting his veto upon a bill for increasing the pay of the members of the General Court as Edward Everett did? Then he would be liable to pay for it by losing part of his own salary, or else he would be told to save what he had by learning to hold his tongue! Is this that independence of the executive in "ACTING WITH FREEDOM FOR THE BENEFIT OF THE PUBLIC" upon laws passed by the General Court, contemplated by the words of the constitution? If so, it amounts to nothing, and the legislature must soon become masters of all.

And the Judges. What man is there in this community whose life, whose liberty, or whose property may not be subject in some degree to the decision of those four individuals? Shall it be said that there is no danger to their independence from the power now assumed by the legislature? Suppose, for example, that it pass a

law which should take from some individual who happened to be unpopular, his property without compensation or his liberty. Suppose that the individual should appeal to the Supreme Court for the protection which the bill of rights explicitly secures to him against precisely such arbitrary violence. On the one side the judges perceive the General Court representing the popular feeling and ready to diminish their means of subsistence, if they decide against their favorite law; on the other side, stands the single, unfortunate, unpopular, persecuted individual. What is the chance of a fair decision upon the unconstitutional law under these circumstances? Let every man bring this case home to his own bosom. Let him remember that parties when excited are rash, vindictive, cruel and unjust. Let him remember that a majority of one, even though that one be a traitor to his constituents, may do him a wrong which years of his repentance will not be able to undo. Let him remember how John P. Bigelow was turned adrift upon the world this very year, by a mere party order, against the wishes of many who obeyed it, and in spite of all his honest efforts to do his duty by the State. Let him think that the same spirit which dictated that proscription could CRUSH a less popular man if he stood in its way; and then let him ask himself if a saving of two thousand dollars a year to the State be, in his mind, an object in comparison with letting in such an influence as this upon the court?

The whig members may have been wrong in their opinions. They lay claim to no infallibility—but they do claim that they were honest in the conviction that the General Court was working for itself an enormous and unconstitutional enlargement of its powers. They were opposed to this in every shape and form. They believed it to have already legitimate powers enough, and that the general welfare would not be promoted by extending them. If retrenchment can only be done at the expense of great principles, then will they oppose retrenchment. But it might have been effected to a much greater extent than was gained by sacrificing those principles. It might have been effected by a little sacrifice of themselves by the legislators who stood so ready to sacrifice their neighbors. When the resolve for the pay of the General Court came up for consideration, one of the whig members moved to strike out two dollars as the rate of daily compensation and to insert instead the sum of one dollar and sixty cents. Had this motion prevailed, it would have saved to the treasury at least fourteen thousand dollars, without being subject to any constitutional objection. If the State needed a contribution from all its public officers so much as to take from its judges of probate and registers a per centage on the confessedly small salaries allowed them, why was it not made general so as to embrace the General

Court within its provision? If a small sum was to be saved from the watchmen who take care of the State House, was it not expedient for the retrenching party to set to them an example of privation by surrendering something of their own? Why should not the members of the democratic party practise as they preach? Yet the motion which tested their disposition met with little favor from them. A proposition of inquiry into the expediency of making some reduction had been offered early in the session by Mr. Savory, a whig member from Carver, but had never been allowed even to find its way to the committee on retrenchment. Yet what reason could there be against an inquiry in this case which would not apply to almost every other? The cost of living has fallen in the boarding houses of Boston as much as any where else. And there is no danger that the seats of legislation would be left bare hereafter, and its business be undone on account of the retrenchment. Yet because all the other officers of the government do not resign in consequence of it, is the principal evidence relied upon to show that the reduction in their case is not excessive. Such is the consistency of men who screw out of the pockets of their neighbors a part of the sums which they compel the State to continue to pay them without any diminution whatsoever.

Had the democratic leaders permitted a separation of that portion of the Retrenchment Bill which involved the salary of the Judges and the Governor from the rest, according to the motion made by Mr. Stevenson, of Boston, it would have very materially diminished the opposition that was made to the whole. The whig members requested that their constitutional scruples might be so far respected as to allow the question to be taken upon that part of the measure by itself. But this reasonable request was absolutely refused. The cry was, the bill, the whole bill, and nothing but the bill. In spite of all the argument that was brought to bear upon the violation of the spirit of the constitution, which was not answered in the House, and which, it is believed, cannot be answered any where, the leaders of the majority persisted in pressing the whole project at once, evidently trusting that the popularity of many of its provisions throughout the State would redeem it from all objections raised against some parts, and bear them, as the authors of it, triumphantly up. Perhaps in this conclusion they may be accurate. Perhaps they gauge the attachment to solid principle existing in the breasts of the people of Massachusetts by a less lofty mark than the whig members do, and by so doing they may hit more nearly the truth. Time only can prove which are right, and which wrong. But the decision of that question could make no difference in the duty of honest and conscientious members of the General Court.

If they honestly believed that one section of a long bill violated the constitution which they had sworn to support, and they could not get it separated from the rest of the bill, it became their imperative duty *to vote against the whole*. Popularity, or no popularity, could not be a question in a matter like this. The real point for decision was, Is THE MEASURE RIGHT? Shall men who are under oath to sustain the constitution, surrender, with their eyes open, a part of that instrument, because it happens to be popular to do so? Perish the doctrine!—or else let conscientious representatives who refuse to acknowledge it return to their constituents the trust which they can no longer honestly keep. Great deference is unquestionably always due to the voice of the people, but something must be claimed too for the principles of the public servant. Many of the whigs and one democratic member felt the occasion to be so serious as to prompt them to place upon the journal of the House of Representatives a strenuous protest against the assault made upon the constitution in the Retrenchment Bill, with their reasons attached. In that form the argument will stand as evidence in after time, perhaps of the sagacity of the opponents of the measure—perhaps, on the contrary, of their ill-founded apprehensions, but, at any rate, of their resolute determination to perform to the last what they believed to be their duty.

THE REMOVAL OF THE ADJUTANT GENERAL BY ADDRESS.

But it was not alone the indifference manifested by the democratic leaders to the safeguards of the independence of the judiciary in the constitution, nor the fury in executing their schemes which prompted them to force a passage of the bill through its second stage at midnight, which made the whig members uneasy respecting the safety of their institutions. No sooner did they obtain the power, than they fastened with the most vindictive ferocity upon the Adjutant General of the State, H. A. S. Dearborn. It is well known that, during the last summer, General Dearborn, upon being suddenly applied to by the government of Rhode Island for a loan of arms to be used in the contest then waging in that State, did lend a certain quantity for that purpose. This was done without consultation with Governor Davis, who did not approve it, but it was not done with any other than the most honest intentions, as is admitted on all sides. If General Dearborn had exceeded his authority, the proper mode of correcting him would seem to have been either to subject him to the censure of existing laws, or to make the laws more strict, if they were not deemed already sufficient to meet the case. Before the election in November, a great deal of censure had been heaped upon Governor Davis by the demo-

cratic orators, for not having at once taken the responsibility of removing him from office. Governor Davis did not choose to undertake to strain his powers for the sake of gratifying vindictive political opponents. But when Marcus Morton came into office, the same persons who had attacked his predecessor doubtless expected that the first act of the new incumbent would be the very one which they had been demanding so loudly of his opponent. What must have been their disappointment in finding that Morton justified Governor Davis by also refusing to assume responsibility in the case! Both the Governor and his friends were conscious of the hardship of punishing a public officer by removal for the commission of a mere error of judgment, and neither party was willing to take the whole burden of the measure on its shoulders. Governor Morton required the democrats in the Legislature to lift from him the responsibility, and they, with a degree of blind submission which does them little credit, submitted to the demand. The method which they adopted to effect their object shall now be exposed in all its deformity.

The first movement that was made consisted of an order of inquiry, offered in both Houses, to know whether the arms which had been lent to the authorities of Rhode Island had been all returned, and, most particularly, whether those which had been returned were identically the same with those which were lent. The answer furnished to this order stated that the identical arms had been restored, with the exception of a few, in the room of which new ones of the same quality had been supplied; so that the charge probably designed to have been raised upon the supposition of a wasteful negligence of the public property, thus fell to the ground. Notwithstanding this damper, Mr. Thomas moved a reference of the Adjutant General's answer to a special committee, of which he was in course made the chairman. And this special committee, on the very next morning after an hour's conference, reported to the House an address for the removal of the Adjutant General. The vindictive manner in which this measure had been pushed showing the nature of the object which its friends had in view, was so instantly exposed by the whig members as to compel the former to consent to a recommittal for the purpose of at least granting General Dearborn a hearing before he was condemned. Mr. Thomas assented to this with no very good grace. He declared his conviction that no hearing would avail the General at all—that his own mind had been made up months ago, and so he presumed were the minds of most of those who were to act in the case. There is no doubt that Mr. Thomas was right. A juryman who is called to pronounce upon the acts of one of his fellow-citizens may be peremptorily chal-

lenged if he has made up his opinion before trial. But a politician who is expected to aid the Governor in getting rid of an opponent is not required in such a case to separate the duties of judge, jury and executioner.

The committee met once more. General Dearborn was notified to attend; and he did so and made his defence. When the report came back to the House, it was found to consist of a somewhat flippant criticism upon the style of that defence, terminating, not with the address as in the former instance, but with a simple order censuring the loan made of the arms. The great object being to procure some expression of opinion from the Legislature to suit the Governor's purpose, it was probably not very material what shape it took, and an order was perhaps deemed more likely to pass the House in the qualmish condition of some of the democrats than so violent a measure as the one originally proposed. The order was as follows.

"*Ordered* That the loan of a portion of the arms belonging to this State, which by law were placed in the custody of the Adjutant General, to a citizen of Rhode Island, to be used in the civil conflicts in that State, was unauthorized by law, and wholly in derogation of the laws of this State and the Constitution of the United States, and is disapproved by this House."

When the matter came up for discussion, notwithstanding a motion to cut off debate was almost immediately made, it was not difficult to show that the legislature was exceeding its province in undertaking through an order, which is neither a law nor a a resolve but "*a simple command*," to judge the misdeeds of a executive officer by volunteering its own construction of the laws of this State and the United States. Admitting all that was alleged against General Dearborn, he was allowed by the very words of Mr. Thomas's report to be amenable to the Governor as commander in chief if his misconduct was connected with military duties. He was also amenable to the same person as chief executive magistrate, if that misconduct was in a civil department, and to the courts of justice in the last resort if guilty of a private wrong. This order was thus shown to be a work of supererogation, a mere declaration without a specified purpose encroaching upon the province of the other departments of the government. Driven from this point by the argument which he was unable to answer, Mr. Thomas next resorted to the desperate expedient of proposing as an amendment to his order, the substitution of his original address for the removal of the Adjutant General. It did so happen that on that day, by forcing the House to a decision through the pressure of the previous question, a majority present sustained this movement. It could not have been carried, had the members been all of them in their seats. So conscious were the movers of the scheme of this fact that they themselves proposed a recon-

sideration on that same night for the purpose of cutting off the possibility of it on the next day. An order varies from a regular act of the General Court in this, that it requires but a single reading instead of three on as many days. On the succeeding morning to the day in which this order passed, it could not have been forced through. Mr. Stevenson of Boston then offered a resolution to rescind it and there is every reason to believe from one division had of the House that it would have been successful if the Senate had not during the discussion pushed the measure directly through. An adjournment followed. The paper was hurried into the hands of the Governor who proceeded in the interval between two legislative days to execute it. And thus Mr. Stevenson's purpose was baffled. There is not on the records of the General Court a single precedent of such indecent haste in getting up an address. There is not a precedent in which a measure of this kind has not been well matured before committees and in the legislative assemblies in the first place, and afterwards carried up to the Governor by committees of both Houses especially appointed for the special purpose. This is the first time that an address to procure the removal of a public officer has been covered up in a joint order of the two Houses, which, not being a subject for executive action, properly should go no further than these bodies themselves without express directions to the contrary. This is the first time in which it has been deemed necessary to escape the sober second thought of the representatives of the people at the expense of every form which gives dignity to their proceedings.

But there is a more grave objection than any of these to the course of the majority in this case. This is the first example in the history of Massachusetts of the abuse for party purposes of the power conferred by the constitution to procure a removal of an officer by address of the two Houses. Neither was there any justification for it whatsoever as the object could have been attained in a more regular and less violent way. Governor Morton had recommended the passage of a law granting him the power to remove the Adjutant General at any time, and the whig members distinctly signified their disposition to assent to such a measure, which was accordingly passed. Now what was the use of straining the constitution to do what the whig members were willing should be done, if the Governor and his friends chose to take the responsibility, in a regular way ? The fact of the Adjutant General being the person sacrificed in this case is of no sort of consequence. All the Judges in the Commonwealth may be sacrificed in the same way for an offence equally free from evil intent, if the principle in this case contended for be once admitted. The Constitution surely meant nothing of the kind. An

address of the two Houses was designed to be used only in cases of disqualification of public officers by reason of unavoidable misfortune, it was not meant to take the place of trials by impeachment or court martial for misconduct. The idea that it might possibly be at some future time abused to party purposes created much alarm in the Convention for amending the constitution in 1820, which was only allayed by the belief entertained that in Massachusetts there was no reason in past experience to apprehend such extreme violence. Little did the persons who held that belief foresee that in the year 1843, an example would be set which more than justifies all the fears expressed in that dignified and wise assembly. Should the same violent temper manifested in the legislature of Massachusetts during 1843 be sustained hereafter by any considerable majority of its members, it is not hazarding to much to say that a very slight pretext would be deemed sufficient in case of need to bring on *a complete revolution in the Massachusetts Courts of Law, through the means of a legislative address.* For after all what did General Dearborn's offence amount to ? He lent some of the State arms, as he believed, with a right so to do and in order to assist the authorities of Rhode Island to keep order and suppress insurrection. In this opinion he may have been wrong, but he meant right. Then why punish him just as severely as if he meant wrong. Is not the best man liable to err ? And did not the very men who were so furious in the prosecution of General Dearborn for exceeding his authority with the most honest intentions, advocate almost in the same breath the refunding of a fine to General Andrew Jackson, which was imposed upon him so long ago as in 1815, because he chose to exceed his authority and violate the law of the land and imprison a Judge for doing his duty, in sustaining it. Where is the difference in these two cases which shall justify the unqualified condemnation before a hearing of one of them, by the chairman of a committee appointed to consider it, and shall prompt the same gentleman as presiding officer of a great democratic festival to name the other as deserving of the approbation and support of his fellow legislators ? Yet Mr. Thomas was the individual who did both these things at the same time. And this was the moderate and impartial gentleman whom his democratic friends intended to impose upon the whig members of the House as their presiding officer !

THE GOVERNOR'S TOAST.

Memorable indeed was that great democratic festival which has been alluded to. It took place at Faneuil Hall on the evening of the 9th of February, and was designed to celebrate the success of Marcus Morton in carrying his election as Governor,

through the legislature. But the only individual who made the affair memorable was his Excellency himself. Flushed probably with his recent victory and stung to the quick by the severe and just examination which had been made of the statements in his inaugural address by the whig members in the House, he did not think it beneath him or his office to indulge in a little magnanimous retort upon them through the gentleman whom they had elected their Speaker. According to the report made of his remarks in the Bay State Democrat, a paper devoted to his support and high in the confidence of at least one branch of the democratic party, he begun by announcing "that he had a small account to settle with a co-ordinate branch of the government," and ended by proposing the following sentiment.

"The House of Representatives: Though afflicted with the KING's evil, it is now undergoing a course of treatment which will soon restore it to health."

Alas! for the dignity of the Supreme Executive Magistrate. Alas! for the character of his wit! Alas! for the value of his prophecy. Physicked and medicated as the House certainly was to give it that false and deceptive coloring which his Excellency would have been glad to hail as the sign of health, it remained an intractable patient to the last. All the efforts of the distinguished president of the supper, aided by a corps of efficient allies both in and out of the Executive chamber availed only to show in more striking colors how the independence of a few of the party served to redeem the servility of the rest. However much therefore Marcus Morton may plume himself upon this manifestation of his talents, one thing may be set down as fact and that is, that in the annals of Massachusetts, never before was a Governor by his own act so degraded, never before was the House so unworthily insulted. Feeling that in the choice of Mr. King for Speaker, the House had in no way departed from the line of its regular duties, Mr. Kellogg, a whig member from Pittsfield moved an order of inquiry as to the proper mode of taking notice of it, and prefaced his motion with a few very pertinent remarks. Who should be the person to meet the inquiry at the outset but Mr. Thomas of Charlestown—the very gentleman who had presided at the festival and who probably heard and repeated the insulting sentiment? But did he apologize for making himself a party to a scurrilous jest upon his successful rival? Did he even acknowledge that the Governor's party zeal had outrun his judgment and sense of propriety? No. He said that he would neither admit nor deny that the words ascribed to his Excellency were actually uttered, and then to preclude all possibility of reply to himself he moved to lay the order of inquiry on the table. In other words he put a

gag upon the discussion of a most unwelcome topic. Perhaps if *he* had occupied the position of Mr. King, and had been treated in the same manner, he would have shown a little more sensibility at the insult to the body of which he would then have been the head, as well as to himself.

SECRECY OF BALLOT, POLL TAX AND ASSESSOR'S LISTS.

His Excellency complained in his address of abuses of the elective franchise. He went on to specify two—the first, a practice which he stated to be common among over-bearing partisans of oppressive interference with the personal rights of voters, the second, attempts made by single voters to introduce into the ballot box more than one vote. It must be admitted that nobody has more repeated reason than the Chief Magistrate to understand the value of a single vote, whatever the quality of that vote may be—but if he intended to amend the law, he should certainly have given his friends some better specimen of amendment than that which they introduced into the General Court. It surely could not be supposed that double voting would be *less* easily practised by folding the ballot so as to conceal the contents, as the new scheme directed every body to do, than by putting them in open according to the existing law. The new law looked very much more in this respect like encouragement to double voting than like prevention. But this was not all. It directed that no votes should be deposited unless the same were written or printed on white paper—making, as was humorously remarked in the debate, an aristocratic distinction in favor of the white color to the prejudice of all others entirely at war with the doctrines now recognized as sound in Massachusetts upon the rights of men. Shall the Selectmen of a town have the power to make "the right of every man to a voice, and an equal voice in the government over him," which his Excellency calls "a natural and innate right;" shall the Selectmen of a town have the power to make the exercise of this natural and innate right depend upon a man's having not a shade of blue, or yellow or pink or green, but perfect white, in the paper which makes his ballot? God forbid such dictation on the part of persons clothed with a little brief authority. The very statement of these and other objections to the bill proposed and passed by the Senate, drove it by the mere force of ridicule out of the docket of the House.

This was a mere absurdity intended to do by law more than laws can well do. The next great plan was of a graver character, the reduction of the poll-tax, so as in no case to exceed fifty cents. His Excellency, in his address, had done his best to say pleasant things to the agricultural interest. Most

particularly did he sympathise with the farmers in the necessity they were under of paying more than their just share of taxation, because the taxes fell mainly upon the visible property, which was the land. It made a very strange practical commentary upon these professions, to observe the eagerness with which a bill was reported in the Senate to reduce the poll-tax to fifty cents. And it was openly declared that the amount would have been fixed at a still lower rate, if it had not been feared that this would defeat the measure entirely. One clause of the bill excepted from the tax those persons, under the age of twenty, who had been heretofore subject to it. This was likely to be some relief to the farming interest, and for that reason it was at once adopted by the whig members. But every farmer in the State can see, with half an eye, that what a town can get towards its expenses by way of poll-tax, from persons of lawful age, is nearly so much saved to the land owner. Somebody must pay taxes. If polls do not pay any thing, land alone must make up for all the deficiencies in personal property. If the taxes become too heavy, personal property may be put out of the way—land cannot be put out of the way; it must stand in the gap when personal property fails,—it must stand in the gap when polls no longer pay. Where, then, is the justice of taking nearly all taxes off the polls, and putting them on the land? Does not a man, by the Revised Statutes, get a settlement in a town by living there ten years, with the payment of the most trifling tax for any five of those ten years? Is not he liable, after that time, to become a pauper, and chargeable to that town? And does not his becoming chargeable increase the taxes upon the land? If a stranger should come into a town, have not the town a right to ask him to pay something into the common stock before he becomes chargeable, or else to go about his business? Are not the pauper accounts heavy enough already, without cutting off part of the means to pay them from the polls, and putting the loss upon the farmers? These questions were all of them asked by the whig members, both in the Senate and in the House. The effect in the Senate was to change the maximum of the poll-tax from fifty cents, as it was reported by the committee, to one dollar. But the farmers in the House did not think that just now was the best time to try even that. Farmers were poor, and did not want to be saddled with more charges than they were used to. It was not kind in Governor Morton, to talk so fair, and bear down so hard. If there were transient people, foreigners and the like, who came into the State to make money, or to enjoy the advantages of our good system of government, our schools and our churches, it was but fair that they should help to pay some little towards maintaining them. It was not much that could be asked of them by the law as it stands. Why

change it?—and above all, why change it now? Such was the language of men who knew what suited the farmers better than Governor Morton does. Let *them* take care how they mistake a few fine phrases of sympathy for them for real help. Some democrats in the House made no such mistake. They could not stand the poll-tax reduction, and so it was lost.

The last, as it was the worst, of the projects connected with the elective franchise, was called "An Act concerning the duty of Assessors." This act made it imperative upon the assessors to charge a tax to any individual who might choose to declare to them in writing, at any time previous to two days before an election, that he was an inhabitant of the town at the time of the last annual assessment. The effect of such a provision is manifest. It is to keep the ballot-box liable to fraudulent entries of citizenship up to as late a date as possible, with the view to operate upon a doubtful election. One of the democratic members honestly expressed an opinion that it would encourage bribery at elections. Neither is this the worst feature of the bill. If a man is not assessed at the regular time, it is commonly the result of his own negligence. The town is driven to apportion its taxes among the citizens, without regard to him. The sums are paid by those citizens, and constitute all the town charges for the year. If the negligent man had been attentive in seeing that he was assessed, the rate of tax would have been less upon every other citizen to exactly the same extent that he would have been required to pay. They make up what is lost from him. As the laws now stand, he suffers for his own fault by losing his right to vote for the year, and may hence be expected to be more careful another time. But as the new law would have it, he can save that right, at any day except the two before an election, by insisting upon paying a sum of money, which he chooses to call a tax, but which is in fact no tax, because the annual sum required by taxes has already been provided. A town therefore raises more money than it wants from punctual citizens who attend to their duty, because it cannot equalize the charge at the proper time upon those who neglect it. And instead of discouraging this neglect by the penalty in the loss of a vote, the General Court proposes very gravely to take that penalty off, for the purpose, it would seem, of making the duty of assessors still more difficult than it now is, and the tax-payers still more negligent. Besides, how is an assessor to judge of the truth of a declaration made by a man whom he may never have seen, that he was an inhabitant of the town at the time of annual assessment, when the man did his best to hide himself at that period from observation? The natural inference would be that the statement was not true, if there was no evidence brought to support it, yet by this scheme none was required—the assessors were bound to abide by the declaration alone.

This project, like the others, came from the Senate. It was referred in the House to a committee, consisting of three whigs and two democrats, which committee reported *unanimously* against it. Mr. Walley of Roxbury very clearly exposed the unconstitutional character of the proposition in defining any money raised to be a tax which the Supreme Court, (Marcus Morton himself being one of the judges) had distinctly laid down not to be a tax if it did not enter into the annual assessment. The bill was rejected. An effort to reconsider it was afterwards successful under a hint from Mr. Tarbell of Pepperell, that the most obnoxious features might be softened, so as to make it more palatable. Party drilling was not more vigorously applied during the session—but all would not do. The bill again failed under a full test vote. Not a whit discouraged, the industrious dictators, in or out of the legislature, set agoing in the Senate a new one, rather more objectionable in its character than that which had been defeated. Mr. Abbott of Middlesex introduced by leave of the majority an act, the importance of which in its consequences had it been adopted, is not at all to be measured by the number of words which it contained. It was in the following words.

"All citizens of this Commonwealth, liable to taxation, against whom no tax shall have been assessed in any town or city in the Commonwealth, shall be and they are hereby exempted by law from taxation for that year in which no tax shall have been assessed against them."

If the General Court should decide to offer a premium to any persons who would devise the most ingenious method of encouraging people to evade taxation, it is scarcely to be doubted that Mr. Abbott would obtain the prize. Let the people look for a moment at the operation of such a measure. The individual who should be able by some adroit management to escape assessment in the spring of the year would, as a reward for his *honest* exertions in avoiding his share of the public burdens, be exempted by law from taxation for the year, and by virtue of such legal exemption, he would be entitled to the right to vote in the public affairs. Thus the doctrine which this law teaches is, that exactly in proportion as a citizen can succeed in escaping his contribution to pay the expenses of the State, is he to be invited to take a share in its guidance. Thus it is that the democratic leaders, for the sake of securing a few straggling votes on the seaboard, are willing to hazard the overturn of the principles which lie at the foundation of all government. Perhaps on the haste in which this measure was drawn, the consequences to which it would inevitably lead, were not foreseen. Even if this be admitted to be true, the charge which the whig members make against the whole policy of the session is only the more confirmed, which is, that the legislation was crude, reckless and revolutionary. Did the people elect men to represent them who should

rashly hazard their prosperity for the sake merely of making experiments to increase their party? Certainly not. They elected them to do the public business, in as short and judicious a manner as possible. If they have failed in doing this, those who caused the failure must take the responsibility.

It could hardly be supposed that men who had resisted the previous measures already described would by any reasoning be induced to sanction this. The committee of the House to whom it was referred, again *unanimously* advised that it should be rejected, and their report was not resisted, so that thus ended this promising scheme. But even then all hope of relaxing the force of the election laws was not entirely given up. A bill had been sent down from the Senate repealing the clause in the law of 1839, which forbids the keeping open the polls at any election after sunset. Upon that bill Mr. Tarbell proposed to engraft an amendment repealing the whole of the law of 1839 at a blow. The fifth section of the law of 1839, it will be recollected, contains a most useful provision, that in all elections, whether for town officers or any others, "no vote shall be received until the name of the person offering it shall have been found upon the list *and checked by the presiding officers.*" Now if His Excellency Governor Morton's homily upon the preservation of the purity of our elections, and on the necessity of preventing double votes, meant anything at all more than a mere flourish of trumpets, it certainly ought to have deterred his friends in the House from proposing to do away with one of the most effective plans of prevention of fraud that the wit of man has yet been able to devise. The checking of every man's name on the list as he votes is perhaps better designed to obviate the dangers of irregular voting than any other single precaution in the election laws, and it certainly does not look very favorably to see a party which professes so much in behalf of the purity of our elections, seeking so immediately after they obtained the power, the means to get rid of it in any of its parts. The same party has been opposed to the keeping of any list at all, both in New York and in Connecticut, until it has obtained the repeal of the law authorizing it in those States. The voters of the State of Massachusetts must see to it that the same thing be not done here also. The disposition was too strongly shown throughout the winter to be susceptible of misconstruction. And although the independent feeling of three or four of the party was sufficient to prevent the adoption for this time of any of the schemes in which that disposition was most visible, yet the fact that a very large proportion of its members agreed to every thing that was proposed ought to be a warning against trusting them with further power to do mischief in future.

Indeed, where would Massachusetts have been if these various bills, had become laws? They cannot be well understood un-

less they are looked upon as part of one great system which has for its object the letting in a flood of spurious votes upon our elections which no scrutiny could be used to detect. If the checking of names be done away, if the assessors' lists are no longer to furnish correct guides to the ascertaining the voting population, if the poll tax is to fall to a nominal sum, if elections are to be pushed on until midnight, and if the votes may be put in so folded as to conceal the fact whether there is one or more; if all these things are to pull down the safeguards of the existing law and the Constitution, then it may be clearly depended upon that the honest and independent voters will no longer have any weapons at all to wield against fraud and violence. Massachusetts may bid good-bye to her old reputation for steadiness, and her honest and liberal public policy, to become ever after the bond-slave of demagogues and political adventurers.

THE CONTESTED ELECTIONS.

The peculiar difficulty existing last autumn in the elections by the people gave rise to an unusual number of disputed seats in the House. Three whigs and one democrat ultimately lost their places by the failure of towns to comply with the directions of the law of 1839 regulating elections, but as none of the decisions involved a principle and the only effect was to change the political majority, it may be as well to proceed at once to the consideration of the two cases which were really interesting, that of Mr. Nash of Whately and that of Mr. Ilsley of Chelsea.

After the decision made by the House that Mr. Nash should not be allowed to sit as a member without any evidence at all of his election, that gentleman thought proper to *begin* to collect the evidence necessary to support his claim. When called before the Committee of Elections in the first place, he begged for delay, and so long was it before the testimony in the case was all handed in that it was not practicable to make a report until a late day of the session. A majority of the committee ultimately decided against Mr. Nash—a minority in his favor, and both divisions made reports sustaining their views to the House. In the partial examination had of the case at the outset of the session the only point raised was whether two votes cast for ineligible candidates should be counted as ballots, or not. If it was right to count them, then was the decision of the town correct. If not, then was Mr. Nash entitled to a certificate. The committee after going into the evidence decided for reasons satisfactory to themselves to reject one, and retain the other vote. Still, by counting that single vote, Mr. Nash was not elected. It was only by the discovery of an entirely new fact in the evidence submitted to the committee, that his title derived some appearance of strength. It appeared that one man had voted against Mr. Nash about whose intention to become a resident in Whate-

ly when he first moved into the town there was some doubt. He had claimed his right to vote in the usual manner and the selectmen had granted it. But it was not very clear whether he really meant to live in Whately when he first came in March, or in July when he took a farm there. The minority took advantage of the doubt against the right of the voter and were for excluding him. And his exclusion gave Mr. Nash a majority of one. The House by a smaller vote than that which originally tried to sustain Mr. Nash decided that his claim was a good one, and he therefore took his seat. But the questions at the bottom of the case remain now quite as doubtful as before. How many towns in this Commonwealth are there which make it a practice strictly to follow the law and count every ballot which has a name on it, no matter what that name is? The practice in the Congress of the United States sustains it and it would not be difficult to show that any contrary rule would inevitably lead in many cases to serious embarrassment and clothe the officers of towns with a dangerous discretion. So it is with the men commonly known in the country as six months men. The practice has been almost universal of admitting them upon their own affirmation only of an intent to reside in the town. If a new one is to be introduced, all that the whig members desire would be that the rule should be made general in all the towns. Although not willing themselves to disfranchise citizens unnecessarily, yet if their opponents decide so to do, the result would scarcely be unfortunate to the whig cause at least in those towns around Boston where settlers from New Hampshire commonly turn the scale.

But whether the admission of the doubtful vote by the selectmen was right or wrong the majority then in the House cared not to learn. They had determined to seat Mr. Nash from the beginning, and so they refused even to hear Mr. Walley's argument against him. It was in favor of the motion for the previous question that Mr. Russell of West Cambridge rather pleasantly remarked that the question about the six months' voter upon which the case should have depended might with perfect facility be reserved until after it was decided, for use in the instance of the next disputed seat for Sharon.

There was more force in this remark than the gentleman himself intended. It was too important to the party to sustain the person whom they had attempted to force into the House at first for them to stop to consider whether they were disfranchising a citizen justly or not. The first act of violence had so shocked the community that it was absolutely necessary either to follow it up with a second or else they would appear to admit it wrong. But it was not alone the admission of Mr. Nash that was desired. The exclusion of Mr. Ilsley was also to be accomplished. After a laborious investigation promoted by the industry of Mr.

Councillor Hallett who notwithstanding his place in the government took a lead in arguing the election cases of the House of Representatives for his party, the committee reported in substance the following facts. On the 28th of November last, the democratic party in Chelsea having ascertained that they should be unable to elect a friend of their own, and fearing that Mr. Ilsley would be chosen, determined to prevent a choice. For this purpose they assembled in town meeting early, and offered motions in quick succession, to reconsider the decision of the town to send a representative, and to dissolve the meeting. Fearing that delay might defeat their purpose they refused to hear a syllable of discussion, but by noise and uproar endeavored to intimidate all opposition, and compelled the chairman of the selectmen to put the questions. These were taken in the midst of confusion and the votes were declared by that individual although he does not appear to have been in a sufficiently calm state to judge of their nature or effect. The whigs indignant, as they very justly were at this outrage upon their rights, declared these violent proceedings utterly illegal and demanded the right to vote for a representative notwithstanding. The chairman, probably conscious of the wrong done by his own party and uneasy at his participation in it, immediately determined to concede it. The votes were fairly received and Mr. Ilsley obtained a decided and large expression of the popular opinion. He was declared to be chosen, and the democratic selectmen signed his certificate. In the face of these facts, in the face of the conspiracy shown to have been formed to deprive Chelsea of her representation, in the face of evidence going to prove in one of the conspirators at least, a disposition even to put votes into the ballot box by handfull so as to destroy the election, the democratic party insisted upon giving to the conspiracy its full effect. Indeed so far did Mr. Thomas of Charlestown go in his printed report on the case, as to maintain that no fraud could be alleged as sufficient reason for afterwards giving to the vote of a town its true effect in representation, if such fraud could in the first instance be successfully executed. He affirmed that a vote of dissolution of a town meeting, however procured by fraud or tumult or in any other manner was "a fact" behind which the House could not go. In a speech delivered in the House on the 17th of March, he said, in answer to some doubts expressed whether he intended so much, "I did mean, precisely what I said." And in justification of the action of his friends at Chelsea in trying to defeat the popular will, he said "*If you cannot elect your own candidate, defeat. That is my doctrine.*" The whig members on the spot denounced and disavowed all such political morality as this. Coming as it did from a gentleman whose erroneous state-

ments on the first day of the session had gone far to procure the admission of a very questionable vote which might have made his election as Speaker "a fact" behind which the House could not go, it was in a high degree alarming. The whigs seek for the opinion of the majority fully and fairly expressed. Their doctrine is, let the voice of the people be heard in its legitimate channels and do nothing solely with the end to impede or dispute or defeat it. Any other principle of action is at war with every principle of democracy. Any other practice will in the end break up all town meetings, especially in populous places, in confusion, and put the quiet, peaceable and orderly voters at the mercy of bullies and blackguards. Under such law as this it will indeed be shortly high time to try to protect the just rights of electors against those "unrighteous and oppressive interferences with the personal rights of voters, by overbearing partizans" which the Governor in his address denounces in language, but which his party in the House appear too well disposed to countenance in practice.

The professors of democracy did thus succeed in their purpose of excluding the Chelsea member and introducing the Whately man. But let it never be forgotten that they did so by taking advantage of legal and technical forms to set aside the voice of the majority. How does such a doctrine tally with the superabundant zeal of his Excellency in support of the inherent right of man to vote? What says he upon the subject?

"The right of every man to a voice, and an equal voice, in the government over him, is a natural and innate right. It does not depend upon the accident of birth or the possession of property. It is not the grant of his fellow-man, but *the immediate gift of God*, who created, in his own image, all men.

"Upon the preservation of the FREEDOM and purity of the elective franchise depends the continuance of our free governments and the just and wise administration of them. They should therefore be watched with untiring vigilance, and maintained with unshrinking energy. *Every attempted invasion of them should be looked upon with indignation and be punished with severity.*"

Here was the doctrine promulgated by the chief of the party to gratify the theoretical enthusiasts in the ranks. But what was the practice in the House the very first moment that they got sufficient power to execute their wishes? Why, they put Mr. Nash in as a member by annulling the voice of one elector against him, his natural and innate right to a voice notwithstanding, and disregarding that of two more electors, who certainly, whatever else may be said about them, cannot be counted in his favor. There is as little doubt now as there was at the time of the election, that out of two hundred and thirty-seven men who exercised the natural and inherent right which is according to the Governor "the immediate gift of God," Thomas Nash, jr. had the voices of only one hundred and eighteen. It could only be then by throwing away and disregarding that gift of God in three

instances that the democratic party arrived at their great object. Let them reconcile the inconsistency as they best can.

But if the Whately case presents a gross departure from political orthodoxy in one particular, how much worse is that of Chelsea by violating it doubly. There not one or two or three voters only were to be disfranchised, but a whole town. The immediate gift of God was to be spurned by wholesale. And this too by sanctioning "an attempted invasion of the freedom of the elective franchise," which the Governor says, "*should be looked upon with indignation and punished with severity.*" How can people look with indignation or punish with severity any act likely to deprive the people of a town of their inherent and innate right to a voice in the government over them, the immediate gift of God, when they declare in their places, "that after a fraud in an election shall have been perpetrated which destroys it, this becomes "a fact" which nothing can set aside; and when they announce it as their doctrine "if *we* cannot elect, defeat?" This is the extent of practical democracy, and no more. The voice of the majority is nothing, unless—that majority be on *our* side. The "immediate gift of God" is of no consequence except—as it is a gift to *us*. The voters in Massachusetts ought then distinctly to understand that whatever the Governor may say to the contrary, their rights can be maintained against the tendency of democratic teaching in the House, only in so far as they may be able to put down noise and clamor, fraud and violence *by their own strong arms at the town meetings*. If it was right to break up the election at Chelsea by such means last year, it will be right so to do every where next year. The whig members repudiate such an idea—they denounce it as the legitimate offspring of the ultra radical and destructive spirit of the time against which as exhibited this year they are now endeavoring to make an earnest and loud appeal.

DEMOCRATIC LEGISLATIVE CONVENTION.

Violent as were the measures thus adopted for the purpose of securing a decided majority in the House to execute the projects which the leaders had in hand, it did seem as if by some fatality the nearer they appeared to arrive at the long desired object, the further removed it actually became. About the middle of the session the fact became somewhat perceptible that the vehement politicians were overshooting their mark. The party collar had been fitted so very close that in spots it was wearing through. The first decided manifestation of internal divisions in the ranks was in the Legislative Convention assembled according to custom to make the arrangements for the year. Resolutions distinctly nominating Mr. Van Buren as a candidate for the next presidency were offered at this meeting, which met with opposition carried so far into the night as to create a necessity for an

adjournment. A week elapsed in the course of which a compromise was effected and Mr. Van Buren was only recommended to the favor of the democratic party in the selection of such a candidate. The elements of discord though quieted for the moment were not however completely laid by this composition. What motives were at the bottom of this division, whether they end in effecting the substitution of Mr. Calhoun or of Mr. TYLER *with the spoils of victory in his possession*, or whether the northern man with southern principles be adhered to presents no very agreeable alternative to the people of Massachusetts though the contest is worthy of their attentive observation. It is not however one upon which the whig members are entitled to express an opinion. Their purpose in alluding to it is effected if the machinations of the politicians are by it more clearly pointed out. If Mr. Calhoun or Mr. Tyler is ultimately to be the candidate of the democratic party, or of any part of it, it is not at all surprising that in Massachusetts there should be some disposition to begin to familiarize its members to the idea. Neither can it be wondered at that not much harmony should follow the attempt.

FINANCES.

That harmony was completely destroyed when the time came to consider the state of the finances in the Commonwealth. His Excellency in the opening speech had taken a very gloomy view of their condition.

> "In assuming the government of the Commonwealth," he said, "we find its pecuniary affairs in an embarrassed condition. It is deeply involved in debt. Its credit is impaired. It has been compelled to sell its own notes under par, to meet its obligations. It has become a partner in a joint stock company controlled by individuals. Its stock will take from the earnings of the people more than fifty thousand dollars a year, without any present prospect of a return in dividends. And it has also involved its fiscal abilities with numerous private corporations, upon whose ability and punctuality, may depend the public faith and the honor of the Commonwealth."

Had this most exaggerated statement been in all its parts strictly true, the whig members ask what should have been the recommendation of the Governor to meet the new exigency? The State of Massachusetts had been valued but three years ago by the General Court as containing three hundred millions of dollars worth of property. What duty could be more palpable than that which pressed upon his Excellency if he believed what he said at once to propose a plan of taxation which by a very trifling levy upon the citizens of the State should put its financial concerns in a sound state, restore its shaken credit and release it from debt? Did he do any thing like this? Not at all. He indulged in some extremely vague and general remarks upon the advantages of direct over indirect taxation, he hoped that retrench-

ment would be first tried because it was a hard time among the people, and then he ended by letting the State credit take care of itself. A more impotent conclusion from premises so solemnly arrayed never made itself ridiculous in a state paper. The State credit did take care of itself and give the most unequivocal contradiction to all the statement. But that was not the only quarter from which such contradiction arose. The Committee on Finance of the House composed almost exclusively of leading friends to his Excellency made a report which in its spirit and general character put all his sophistry and misrepresentation to shame.

That report admitted most distinctly that there had been changes in the policy of the State, within a few years, which had materially relieved its treasury. It admitted that the current revenue of the last year had not only met all the current expenditure, but had paid ninety-four thousand dollars of old debt, and left a balance of forty thousand dollars in the treasury. And although it went on to predict very gloomy results as to the future, notwithstanding all the efforts which had been made to retrench, it most unequivocally affirmed of the State, that "THERE WAS NO BLIGHT UPON HER CREDIT, NO STAIN UPON HER FAITH, NO DISHONOR UPON HER SACRED PLEDGES." It is somewhat refreshing to dwell upon the tone of the report, even though it be impossible to approve its reasoning, or to admire its conclusions. If its main position be allowed to be sound, that there must be a great deficiency in the treasury at the end of this year, the true and honest remedy which should have been recommended was a direct tax. Even Marcus Morton had told his friends so much as that. He told them that "direct taxes, exhibiting to the tax-payer most clearly and most distinctly the exact amount which he pays, had the advantage of making him vigilant in investigating the nature and extent of the public expenditure, and in calling public agents to account for waste or misapplication." He told them, moreover, that "indirect taxation operated insidiously and inequitably," particularly specifying the tariff of duties of the general government as an example. And yet, in the face of all this reasoning, the finance committee ended by recommending a new indirect, and said nothing about a direct tax. And what was the new subject that had been found, upon which to levy an indirect tax? Why, neither more nor less than those very railroad corporations, "upon whose ability and punctuality" to pay what they now owe, the Governor says, "depends the public faith and honor of the Commonwealth."

TAX ON RAILROADS.

It did certainly appear not a little extraordinary that those corporations should be singled from all others, to be bled, which had been already pointed out as having so little blood in them that it

was not a little hazardous to the State to have "involved its fiscal liabilities with them" at all. Either these railroads are responsible, or they are not. If they are, why not let them provide the means to release the State from those formidable fiscal liabilities which make such a parade in his Excellency's message, as fast as they can, without checking the operation by laying a tax. If they are not, how impolitic, to bring on the very difficulties apprehended from their embarrassments more rapidly than they would otherwise come. The cry *now* is, the railroads are so rich that they will not feel a contribution of one per cent. per annum, to the State, in the least. The cry, not more than a year ago, was, that the farms in the Commonwealth were all saddled with mortgages on account of these same railroads, which were such doubtful enterprises that they would probably be paid off only by a direct levy on the farmers themselves. Both these stories cannot be true. But one of them did very well to tell the people before election,—the other does better afterwards. Is not it a fact that, notwithstanding his Excellency's complaint of the State "having involved its fiscal liabilities with numerous private corporations," the majority of his party positively refused to a accede to a proposition, made by one of them, to release the State from its guarantee of half a million of dollars? It is a fact that the Eastern Railroad made such an offer last winter, and that it was voted down. The argument against it was, that the railroad was trying to take advantage of the State, by endeavoring to enlarge its capital, in order to pay off the debt which the Commonwealth had guaranteed, and to postpone the time when, according to the charter, it might be taken possession of. Such was the democratic argument in the House; and, poor as it may have been, how can it be made to agree with the gloomy insinuations of the Governor against their credit, and with his regrets that the Commonwealth should be implicated with them?

The whig members of the Legislature could scarcely have been less astounded, had a proposition come from the other side to tax schools and churches, than they were at the one actually made, to tax railroads. These railroads have all of them been public undertakings, designed directly for the benefit of the people of the State, and only indirectly for the advantage of those who conduct them. They have been built and carried into operation by individuals, at their own personal risk, instead of being done, as in many of the States, at the public expense; and for this reason, those individuals are entitled to the compensation which may fairly accrue to them from the bargain they made. They constitute a part of the advance which the whole country, from Maine to Florida, is making, and in which Massachusetts would have had cause for shame if she had not gone on at least as wisely and as well as her neighbors. The old States have nothing to depend upon in this Union but their industry and their

capital. It is the whig doctrine, that every measure which will have the effect of encouraging that industry to remain at home, must be useful. If railroads are likely to have such an effect, by creating markets in the State, which would otherwise have been sought for out of its borders, then are railroads to be favored, instead of being discouraged.

Now the taxing of railroads inevitably produces at least two consequences. It prevents the chance of others being made in any direction, so that a monopoly of the advantages to be obtained from those already made must be enjoyed not merely by the owners of them, but also by the particular towns in which they run. It also operates unfavorably to the prospect which the State has, under the regular charters, of obtaining the roads for the public use after the owners shall have been reimbursed for their outlay. As it regards the Western Railroad, in which the Commonwealth is itself a stockholder to the amount of one million of dollars, for which sum it is actually paying interest at five per cent. per annum, an annual tax of one per cent. upon its capital, after it shall begin to pay dividends, is neither more nor less than taking in the shape of a tax what would otherwise come in the shape of a dividend from its own stock, whilst it will deprive the private stockholders of one per cent. from their small share of the profits, without any compensation at all. They are sacrificed on account of their public spirit, whichever way we look at it. Sacrificed if the railroad be not profitable, for then the State will seize it as security for its debt; sacrificed if it be profitable, for then the State will seize a part of the profits to pay its own annual current expenses. Their partnership with the State turns out to be the partnership of the lion and the lamb. Such is the magnanimity and the justice of democratic legislation.

But the greatest evil of all which attends this mode of replenishing the State coffers is the countenance with which it affords to a charge of breach of faith against the State. Here are individuals who have manifested a disposition to embark their funds in hazardous enterprises for the benefit of the Commonwealth, under the expectations held out to them by positive grants of specific privileges for a limited portion of time. The contracts between the State and the companies who make the railroads, are contracts in which each party gets some advantages in exchange for an equivalent which it gives. It does not seem just for either, and especially the strongest one, to come forward and crowd new and onerous conditions into the agreement. Such conduct would not be tolerated a moment between private men. What is there which makes it justifiable in a State? For an accidental and momentary advantage, it sets at hazard that which is the brightest jewel which can adorn it—the reputation for good faith. The evil which follows a decline in this reputation, is the weakening

of mutual confidence,—confidence between man and man,—confidence between man and the community of which he is a member. This is the great and crying evil of the times in America, from one end of the United States to the other. The end of good government is peaceably to develope all the energy of the individual members of society, to which end confidence in one another is absolutely necessary. Such confidence did once exist in this State, and all over the Union. It had been nursed by many years of careful and wise administration of the general and state governments. But other counsels prevailed, and it exists no longer. The people were led, by the honeyed voices of arch demagogues, bent on gaining their own selfish ends, to imbibe suspicions of each other. The honest men no longer moved together, in one dense and powerful mass, in the road at once to the public good and to their own. The enterprising and prosperous classes, which had worked to gain their fortunes by the only true methods of honesty, temperance and prudence, found themselves branded with a charge of enriching themselves at the cost of their neighbors. And too many single-hearted persons opened their ears greedily to swallow the calumny. Then came the race, laid open to the morally weak, the desperate and the profligate to run for wealth, without the necessity of having the virtues which earn it. The era of gambling took the place of the healthy period of industry. It passed away, leaving the people who suffered by it discontented and poor. And now that the producing classes are most severely suffering from the natural effects of listening to this poisonous doctrine of mutual distrust, now that every body is standing still because no one is willing to go forward, come in the very same club of politicians to turn to their own account the jealousies which they have infused, to reap the fruit from the seed of their own sowing, to undermine completely all the institutions which have been heretofore held sacredly stable, and to throw the community back into the condition in which a government of wilful and dangerous men takes the place of a government of law.

People of Massachusetts! You hold the decision of your fortunes in your own hands. If it please you to see the Constitution of the Commonwealth which you have more than half a century loved to cherish treated as if it was of no account. If it please you to overturn your election laws for the sake of introducing the corrupt system of some other states; to make your Judges servile instruments to do the will of the General Court instead of honest and independent public servants; to reduce them to seven years incumbents in spite of the solemn warnings against it of your forefathers, recorded in the instrument of your government; if it please you to sanction vindictive party punishments for mere error of judgment in public officers; if it please you to encourage trifling with your faith to all who would put their

trust in you, and to discourage and drive away your industrious population into the western wilderness by throwing a chill upon their energetic labors to sustain themselves at home; then will you retain in power the present incumbents until you shall have bitterly suffered from their pestiferous policy, and it will be too late to repair by a return to salutary counsels the injury actually done. This year is the year of crisis in the history of Massachusetts calculated to test the good sense and the solid judgment of her population. She is on the brink of a precipice. At this moment there can be but two parties, and those who strive to think otherwise will only the more effectively aid one of those two. The whig members of the legislature have had abundant cause to see and to feel this truth whilst endeavoring to stem the torrent of rash and revolutionary measures, which had they been adopted might have prevented a fair opportunity for another and a final appeal to the people. In this they were fortunate enough to be partially successful. They implore the voters once more to consider well what they do before they take another step which may be beyond recall. There may have been errors in the whig policy and in the whig party, but the State has suffered as yet very little from them and how much she has prospered under whig guidance may be seen at almost every turn. And what, it may be asked, are the causes of complaint against them when compared with those which grow out of the reckless, and unprincipled and ignorant guidance to which the State was subjected during the last winter, when a distinguished democratic senator felt it his duty to retire for a time from the scene of action because he said dishonest adventurers ruled the hour? And shall it ever be said that a majority of the voters of the Commonwealth will after their eyes have been opened by such admissions permit these adventurers to retain the ascendency they have seized? The whig members trust not. At any rate their duty has now been performed. Whatever may betide the State, their task they hope has been honestly executed. They again resume their private situations with the satisfaction of reflecting that the great responsibility which by accident devolved upon them is now over, and that with the people to whom it legitimately belongs rests once more the power of sweeping away as with a purifying besom the vermin which unfortunately have crept into their public stations to annoy and distress the body politic.

By order of the Whig Members

GEO. B. UPTON,
L. MOODY,
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} *Committee.*